

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-CV-61645-AHS

GARY BRECKA, an individual,

Plaintiff,

v.

**THE INDIVIDUALS, ENTITIES, and
UNINCORPORATED ASSOCIATIONS
D/B/A GOT HYDRO WATER BOTTLE,**

Defendants.

PLAINTIFF'S MOTION FOR ENTRY OF CLERK'S DEFAULT

Plaintiff Gary Brecka ("Brecka" or "Plaintiff"), by and through his undersigned counsel and pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, respectfully requests entry of clerk's default against Defendants the Individuals, Entities, and Unincorporated Associations doing business as Got Hydro Water Bottle (collectively, "Defendants") with respect to the claims asserted in the Verified Complaint [DE 1].

Brecka commenced this case by filing the Verified Complaint on September 5, 2024, asserting claims for unfair competition and false endorsement under the Lanham Act, violation of the statutory right of publicity under Florida law, invasion of privacy, and common law unfair competition. *See generally* [DE 1]. Defendants were served with the summons and Verified Complaint on September 13, 2024. *See* [DE 10]. To date, Defendants have failed to appear or respond to the Verified Complaint.

Pursuant to the Federal Rules of Civil Procedure, "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by

affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Here, the record demonstrates that Brecka is entitled to entry of default against Defendants with respect to the Verified Complaint. The Verified Complaint, which was properly served upon Defendants on September 13, 2024, required a response from Defendants no later than October 4, 2024. *See* Fed. R. Civ. P. 12(a)(1)(A)(i) ("A defendant must serve an answer: within 21 days after being served with the summons and complaint[.]"). The record reflects that Defendants have not appeared, have filed no response to the Verified Complaint, nor have Defendants requested additional time in which to do so.

Accordingly, Plaintiff respectfully requests that the Court grant this Motion, and enter clerk's default against Defendants, the Individuals, Entities, and Unincorporated Associations doing business as Got Hydro Water Bottle.

Dated: October 7, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of October, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. I also certify that this

Motion will be sent to Defendants by U.S. Mail to the Colorado address(es) on Defendants' website on this date.

By: /s/ Geoffrey Lottenberg
Geoffrey Lottenberg